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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,922	10/19/2001	Theresa A. Deisher	96-20D2	7962

7590

05/02/2006

Deborah A. Sawislak  
Patent Department  
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Seattle, WA 98102

EXAMINER
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SAOUD, CHRISTINE J

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/037,922

Applicant(s)

DEISHER ET AL.

Examiner

Christine J. Saoud

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-13 and 21-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-13 and 21-35 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's amendment filed 18 April 2006 has been received and entered.  
Claims 8-10 and 33-35 have been amended and claims 1-7 and 14-20 are canceled.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Any objection or rejection of record which is not expressly repeated in this action has been overcome by Applicant's response and withdrawn.

### ***Specification***

In reviewing Applicant's response to the Final Office action, it became apparent that the paper copy of the Sequence Listing in the instant application does not correspond to the computer readable form (CRF) of the Sequence Listing of the instant application. The paper copy of the instant application, which was filed 19 October 2001, only contains 20 sequences. The CRF of the instant application contains 36 sequences, as referenced by Applicant in the response (page 6, middle of the paragraph, SEQ ID NO:36). Therefore, the instant specification does not comply with the Sequence Rules: 37 CFR 1.821(c) requires a paper copy which contains each sequence from the specification, 37 CFR 1.821(d) requires reference be made to each sequence in the specification by use of the sequence identifier, 37 CFR 1.821(e and f) require a computer readable form of the Sequence Listing and that the content of the two forms be identical. Because there are more sequence in the CRF than the paper copy, they clearly are not identical. Because there are no references made to the

sequence in the Figures by use of sequence identifiers, it is clear that the specification is not in compliance with 37 CFR 1.821(d).

It is noted that the parent application, 08/951,822, had a second Sequence Listing filed, presumably to include the additional sequences found in the specification. The specification was also amended to include reference to these additional sequences. Applicant may wish to use the parent application as a guide in correcting the deficiencies of the instant application. A new statement regarding the content of the paper copy and the computer copy of the Sequence Listing is required (37 CFR 1.821(e)).

***Allowable Subject Matter***

Claims 8-13 and 21-35 are allowed.

This application is in condition for allowance except for the formal matters detailed above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine J. Saoud whose telephone number is 571-272-0891. The examiner can normally be reached on Monday-Friday, 6AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHRISTINE J. SAOUD  
PRIMARY EXAMINER

*Christine J. Saoud*